

1 William J. Goines (SBN 061290)
2 Karen Rosenthal (SBN 209419)
3 Cindy Hamilton (SBN 217951)
4 GREENBERG TRAURIG, LLP
5 1900 University Avenue, Fifth Floor
East Palo Alto, CA 94303
Telephone: (650) 328-8500
Facsimile: (650) 328-8508
Email: goinesw@gtlaw.com

6 JEREMY A. MEIER (SBN 139849)
7 GREENBERG TRAURIG, LLP
1201 K Street, Suite 1100
Sacramento, CA 95814-3938
8 Telephone: (916) 442-1111
Facsimile: (916) 448-1709
9 Email: meierj@gtlaw.com

10 **Attorneys for Defendants Polo Ralph Lauren
Corporation; Polo Retail, LLC; Polo Ralph Lauren
Corporation, doing business in California as Polo
Retail Corporation; and Fashions Outlet of America,
Inc.**

13 **UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA**

16 ANN OTSUKA, et al.

Case No. C07-02780 SI

17 Plaintiffs,

v.

18 POLO RALPH LAUREN CORPORATION, a
Delaware Corporation; et al.,

**DEFENDANTS' [PROPOSED]
PRELIMINARY STATEMENT TO BE
READ TO THE JURY VENIRE**

20 Defendants.

Judge: Hon. Susan Illston
Trial Date: March 15, 2010
Dept.: Courtroom 10 (19th Floor)

22 The parties respectfully request that the court read the following preliminary statement
23 to the jury venire:

24 This is a lawsuit brought on behalf of certain former employees of Polo Ralph Lauren
25 Corporation, Polo Retail, LLC, and Fashion Outlets of America, Inc. (otherwise known
26 collectively as "Defendants" or "Polo"). The Class representatives suing Polo are Janis
27 Keefe, Corinne Phipps and Renee Davis, three former employees of the defendants. Class
28 members also suing Polo are approximately 6500 former sales associates and

1 cashiers/customer service representatives who worked at a Polo retail or outlet store in
 2 California between May 30, 2002 and January 31, 2009. This case is a class action that seeks
 3 monetary recovery for alleged unpaid wages, including unpaid overtime wages, waiting time
 4 penalties and punitive damages.

5 Plaintiffs allege Defendants violated California's employment laws and failed to pay
 6 their employees all of their wages. Defendants deny the allegations in the Complaint and
 7 assert they followed California and Federal law, and that they paid employees all wages owed.
 8 No determination has been made whether Plaintiffs' or Defendants' contentions are correct, or
 9 whether Defendants are liable to pay any monetary amounts. That is the purpose of this trial.

10 Plaintiffs' specific claims are as follows:

- 11 1. Polo committed fraud by making false promises to certain of its employees
 regarding their eligibility to receive premium overtime pay;
- 12 2. Polo failed to pay employees for the time they spent waiting for loss prevention
 or "bag check" inspections after they had clocked out;
- 13 3. Polo failed to pay premium overtime wages to certain former employees;
- 14 4. Polo failed to timely pay all wages due at the end of Class members'
 employment;
- 15 5. Polo failed to maintain accurate pay records for employees;
- 16 6. Polo misclassified certain sales employees as being exempt from being entitled
 to premium overtime pay; and that
- 17 7. Polo's actions justify an award of penalties and punitive damages;

22 Defendants deny these allegations and assert that liability for the claims does not exist
 23 to the class. Defendants further deny that they owe penalties or punitive damages.

24 The court certified this case as a class action because of common questions of law and
 25 fact and for reasons of efficiency. The court has, however, taken no position as to the merits of
 26 any of the claims. The court has set limits on the time each party will have for various parts of
 27 their cases, which will limit the number of witnesses each side will call. The Court estimates
 28 the trial will last approximately [NUMBER] days, until [DATE].

1 DATED: February 26, 2010
2
3

GREENBERG TRAURIG, LLP

4 By: /s/ William J. Goines
5 WILLIAM J. GOINES
6 JEREMY A. MEIER
7 CINDY HAMILTON
8 KAREN ROSENTHAL
9 Attorneys for Defendants Polo
Ralph Lauren Corporation; Polo Retail, LLC;
Polo Ralph Lauren Corporation, doing
business in California as Polo Retail
Corporation; and Fashions Outlet of America,
Inc.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28